

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOANNA P. MATTSON, on behalf of herself and all others similarly situated,

Plaintiff,

V.

MILLIMAN, INC., et al.,

Defendants.

C22-0037 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Plaintiff's motion in limine, docket no. 154, to exclude the testimony of Mr. Stephen White at trial is GRANTED in part and DENIED in part. Mr. White will be allowed to testify at trial. To cure any "prejudice or surprise" to Plaintiff while allowing the case to be decided on the merits, *see Silvagni v. Wal-Mart Stores, Inc.*, 320 F.R.D. 237, 242–43 (D. Nev. 2017), Plaintiff will be allowed to depose Mr. White prior to trial for up to three (3) hours.

(2) Defendants' motion in limine, docket no. 153, to exclude evidence of documents and testimony about events on or after January 13, 2016, is DENIED. Evidence about events after January 13, 2016, is relevant to the claims in Plaintiff's complaint, *see* First Am. Compl. ¶¶ 28, 174–208, 220–25, 231–32 (docket no. 44), concordant with Dr. Laffer's testimony, *see* Laffer Dep. at 19:3–23, 68:10–14, Ex. A to Pl.'s Mot. (docket no. 167-1), and consistent with the case law articulating a fiduciary's ongoing duty to monitor investment plan options, *see, e.g.*, *Hughs v. Nw. Univ.*, 595 U.S. 170, 175 (2022).

(3) Defendants' motion in limine, docket no. 153, to exclude the written expert reports of Dr. Arthur Laffer and Mr. Horacio Valeiras as trial exhibits is DENIED. *See, e.g., Williams v. Illinois*, 567 U.S. 50, 78 (2012) (citing Fed. R. Evid. 703).

(4) The Court has reviewed the parties' submissions, docket nos. 159 & 160, regarding the appointment of an expert under Federal Rule of Evidence 706 and DEFERS its determination on whether an expert is necessary to the pretrial conference.

(5) The Clerk is directed to send a copy of this Minute Order to all counsel of record.

Dated this 13th day of March, 2024.

Ravi Subramanian
Clerk

s/Laurie Cuaresma
Deputy Clerk